

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION

NOGALES PRODUCE, INC.

PLAINTIFF

vs.

CASE No. 05-CV-5072

JOSEPH FAGAN, PRO FRESH, INC.  
d/b/a PRO-FRESH PRODUCE, and  
KIMBALL & THOMPSON PRODUCE COMPANY

DEFENDANTS

**FINAL JUDGMENT**

Now on this 14<sup>th</sup> day of February, there comes on to be heard and considered the above-styled and numbered cause. The parties informed the Court that they have agreed that the Court has jurisdiction over the parties and the subject matter of this lawsuit. The Court has considered the agreements, the representation of counsel, the pleadings, and official records on file in this matter, as well as the applicable law, and is of the opinion and finds that it has jurisdiction over the parties and the subject matter of this lawsuit, that judgment should be rendered and entered in favor of the Plaintiff, Nogales Produce, Inc., against Defendants Joseph Fagan and Pro Fresh, Inc. d/b/a Pro-Fresh Produce.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that Plaintiff Nogales Produce, Inc. have and recover from Defendants Joseph Fagan and Pro Fresh, Inc. d/b/a Pro-Fresh Produce the sum of \$12,000.00

plus interest on same at the rate of 4.67% per annum from the date this Judgment is signed until this Judgment is paid in full, for which let execution issue.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party is to bear its own costs of Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff Nogales Produce, Inc. is the beneficiary of a federal statutory trust created in its favor pursuant to the terms of the Perishable Agricultural Commodities Act (the "PACA Trust"). 7 U.S.C. §499e(c).

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff Nogales Produce, Inc. have such writs and processes as may be necessary in the enforcement and collection of this Judgment.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff's claims against Separate Defendant Kimball & Thompson Produce Company are hereby DISMISSED with prejudice.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all relief not expressly granted herein is DENIED. This Judgment disposes of all parties and all claims and is final for the purposes of appeal.

IT IS SO ORDERED.

/S/ Robert T. Dawson

Robert T. Dawson  
United States District Judge